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SUPREME COURT, U.S.

No. 05-1547

In the Supreme Court of the United States

PAUL A. SIMS, et al.,

Petitioners,

v.

OHIO CASUALTY INSUANCE COMPANY, PRUDENTIAL INSURANCE COMPANY OF AMERICA a/k/a PRUDENTIAL FINANCIAL; FIRST UNION BANK OF TAMPA, N.A. a/k/a WACHOVIA BANK; BARNETT BANK OF TAMPA, N.A. a/k/a BANK OF AMERICA; JAMES O. KING, JR.; PEOPLES STATE BANK OF CHAPLIN KENTUCKY a/k/a KING SOUTHERN BANK; NELSON BANCORP, INC., J.R. HORN a/k/a MARION HORN, JR.; and UNITED STATES MORTGAGE AND TRUST COMPANY, INC.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF IN OPPOSITION

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CORPORATE DISCLOSURE STATEMENT

Respondent The Prudential Insurance Company of America is an indirect wholly-owned subsidiary of Prudential Financial, Inc. Respondent Prudential Equity Group, LLC (f/k/a Prudential-Bache Securities, Inc. and Prudential Securities Incorporated) is an indirect wholly-owned subsidiary of Prudential Financial, Inc.

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PRUDENTIAL RESPONDENTS' BRIEF IN OPPOSITION

Respondents The Prudential Insurance Company of America and Prudential Equity Group, LLC (f/k/a Prudential-Bache Securities, Inc. and Prudential Securities Incorporated) (the "Prudential Respondents") respectfully urge this Court to deny the Petition for a Writ of Certiorari seeking review of the Amended Opinion and Judgment of the United States Court of Appeals for the Sixth Circuit issued on October 12, 2005, which affirmed the Order of the United States District Court for the Western District of Kentucky issued on September 25, 2003, as amended by the Order entered on July 16, 2004.

The Prudential Respondents do not accept the Petitioners' statement of the case and recital of the facts of the case but instead adopt the Court of Appeals' recitation of the facts in its Amended Opinion issued on October 12, 2005.

In addition, the Prudential Respondents submit this brief in opposition to correct a misstatement of fact in the Petition pursuant to Rule 15(2) of the Rules of the Supreme Court. The Petitioners allege, at page 13 of the Petition, that Counsel of Record for the Prudential Respondents actively participated in a conspiracy to conceal a settlement agreement from the Petitioners by affirmatively denying the existence of the settlement agreement. That allegation is utterly false and devoid of evidentiary support.

The Petitioners have failed to state an issue worthy of review by this Court. Accordingly, the Court should deny the Writ.

CONCLUSION

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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